

**Testimony of Commissioner M. Patricia Smith to the House Committee on the
Budget: Budgeting to Fight Waste, Fraud and Abuse
July 17, 2007**

My name is M. Patricia Smith, the Commissioner of the New York State Department of Labor. Thank you for the opportunity to testify today on the subject of New York State's unemployment insurance (UI) and re-employment programs, their funding levels and the critical services we are able to provide under these programs. In particular, I will describe the success we have achieved with our Re-employment Eligibility Assessment (REA) grant and address concerns about the overall levels of funding provided to states to provide these services. Adequate funding is essential if we are to improve services to our customers, reduce fraud and waste in the system, preserve the integrity of the Trust Fund, and maintain the quality and competitiveness of America's workforce.

As you know, funding for UI Administration, Wagner/Peyser (job service assistance) and Labor Market Information programs is provided from dedicated employer tax revenues collected under the Federal Unemployment Tax Act (FUTA). In addition to funding these core programs, national FUTA special grant funds currently support a limited REA Program in New York State. We are now in the third year of operating this competitively awarded REA grant program.

I'd like to thank Congress for providing this funding opportunity. This has allowed New York to better determine which re-employment services and strategies help to reduce the length of time individuals receive UI benefits and, most importantly, result in their re-employment. We are pleased with the program results and welcome the opportunity to share what we have learned from our experience.

New York was awarded an annual federal REA grant of \$647,000 for the last two years, up from approximately \$615,000 in the initial grant year. This grant funds approximately eight dedicated REA staff, who conduct in-person re-employment and eligibility assessments for over 3,000 UI customers annually in three full-service One-Stop Career Centers. This has permitted dedicated REA-funded staff to conduct approximately 10,000 individual REA assessment interviews annually. Our REA grant strategy focuses on scheduling the claimant early and often in his or her UI claim. This in-person service ensures that the individual is fully aware of and continues to meet the UI eligibility and work search requirements. It also ensures that he or she is actively engaged in effective job search activities and has access to the vast array of services available through the publicly-funded Workforce Investment Act (WIA) system.

In New York, the REA grant is limited to only one of 33 local workforce investment areas of the state. This local area includes the three small counties of Oneida, Herkimer and Madison. The region has sustained a serious and continued economic downturn from the shrinking of its traditional manufacturing economy. We targeted this region to pilot the REA model because we believe that any strategies which lead to successful re-employment in a challenged economic region of New York could be replicated anywhere in the country with similar outcomes.

I am pleased to report that New York's grant results have exceeded our initial expectations. The goal in the first year was to achieve a one-week average reduction in the duration of UI benefits. Actual results to date indicate we have achieved close to double that goal – a two-week reduction in the average duration of benefits, when compared to a control group. Based on an average of 3,000 annual participants, a two-week duration reduction at an average weekly benefit rate of \$278 would result in New York UI Trust fund savings of approximately \$1.67 million – a gross return on investment of over 250%!

This level of savings was consistent over the first two grant years and we believe the results can be replicated and expanded to other areas in New York State. However, they cannot be achieved without cost. The federal requirements for the REA program are staff-intensive. Our experience and analysis of the results indicate that providing a comprehensive, individual level of service and dedicated case management is the key to achieving success for the UI claimant and success for the UI Trust Fund. We believe it would be a wise investment to expand the \$20 million available nationally for this grant program. New York has applied in each of the past two years for an increase in REA grant funds to expand our program statewide. However, the limited federal funds have not been available to do that.

Our 2007 REA application estimated that an *additional* \$7.2 million over the current grant level would be needed to expand the REA model to all regions of New York State. The current grant annually serves only about 1% of the New York UI claimants that receive first payments and are not exempt from searching for work. The proposed grant expansion would allow us to increase to about 10% of that population, or approximately 35,000 *additional* participants. Assuming we achieve our previous rate of return, we would anticipate a net gain of over \$11 million in Trust Fund savings.

Having touted the overall success of the REA model we piloted in New York, I would like to share with you the key lessons that we learned.

First of all, it is important to view the New York State REA results within the proper context. The minimal \$647,000 federal REA grant alone could not have achieved these results. They were achieved only by combining the federal REA grant with significant state and local funding investments in UI Re-employment Services. Without the leveraging of other resources and the foundation of strong state and local partnerships in the delivery of re-employment services, we would not have been able to implement the REA model that works for New York.

Let me clarify:

1. The federal REA program is funded from UI administrative funds and comes with strict guidelines on what REA dollars can and cannot cover. REA funds can be used to provide general information about the labor market, review the claimant's work search activities against a work search plan, assess the need for re-employment services, and refer the individual to needed services. However, it is important to note that REA funds can not be used to fund the delivery of critical Re-employment Services, such as resume writing, interviewing workshops, skill development, job development, and job search, referral and placement activities. The success of REA is contingent upon there being sufficient Re-employment Services available through the local workforce system to serve the UI population. The REA program must be integrated into the local area workforce plan, and local One-Stop partners must buy in to the REA program goals.

The importance of these critical elements cannot be overstated. In New York, state policy and resource investment were important in providing this foundation:

- New York State law finances a Reemployment Services Program with contributions from employers (.075% of taxable payrolls) targeted to UI customers. Each year, up to \$35 million dollars are made available to support local Department of Labor staff within the One-Stop system to provide re-employment services to UI claimants. As a result of this state-funded investment, New York already had a well-established statewide Re-employment Services program along with the tools and systems needed to support these targeted services to the UI population.
- New York has state policies that created true workforce system integration by mandating the alignment of service delivery for the WIA Title IB and Employment Service programs. Local workforce areas were

required to submit plans that aligned their services according to function as opposed to funding streams. Plans were required to reflect such key concepts as a single customer flow, a shared customer pool, functional service units, functional leadership and supervision, common data management, increased service levels, service delivery designed from the customer perspective, and shared accountability.

As part of these efforts, regional Re-employment Service plans were required that demonstrated how the state-funded UI Re-employment Services program would be integrated within the One-Stop system. In addition, the policy required all UI claimants to be co-enrolled in both the Employment Service and WIA programs, thus making local workforce boards jointly accountable for our customers' success. This important policy change reflects the intent of Congress when it passed the Workforce Investment Act.

2. Another key component of the REA-funded pilot is the addition of UI benefit payment control to the service strategies available in the One-Stop system. REA staff can provide an individual assessment of a UI claimant's continuing eligibility for benefits. They can identify potential UI issues, while UI administrative-funded staff must actually adjudicate issues and make eligibility determinations. This potential withholding of the UI benefit gets a claimant's immediate attention. The strong linkage between the administration of UI and the One-Stop service delivery system is critical to the success of any REA model. New York recognizes that unless UI and Re-employment Services are viewed as a set of services within a single system, and all segments of that employment and training system are aligned, we will not be able to make progress in our workforce employment and training efforts.

In New York State, the Division of Employment Service (DoES) has the lead responsibility for both the state-funded Re-employment Services program and the

federally funded REA grant. New York continues to maintain the strong linkage between the public Employment Service and the administration of the Unemployment Insurance program. This historical Employment Service/UI linkage has been weakened in some areas of the country, as UI has moved to centralized call centers or the delivery of services over the Internet, and the Employment Service program has been absorbed within the broader, universal One-Stop system. In New York State, where the UI customer represents over 60% of the One-Stop system customer pool, the Employment Service program has maintained a strong focus on serving the UI customer as one of its core Wagner/Peyser roles. This has provided the strong bridge between the administration of UI and the One-Stop system that is needed for the success of the REA program.

Under the state-funded Re-employment Services program, the Department of Labor made significant investments in technology to share information among UI administrative systems, the One-Stop Center Case Management System, and a state-developed system specifically designed for scheduling and case management of UI customer re-employment services. This system integration identifies new claimants early in the claims cycle, provides the tools needed to efficiently schedule claimants for re-employment service appointments, and gives local staff the ability to suspend UI benefits if claimants fail to report for scheduled appointments. Without this integration, New York would not have been able to implement the REA grant as quickly and successfully.

3. People rely on the publicly-funded workforce system to help them navigate spells of unemployment. We learned that it was necessary to hire more employment counselors to help people navigate career choices and decisions. Assessing each worker's ability to perform in the global economy leads to better service strategies to help that individual make guided career and training choices. Many UI claimants had no idea how their skills could translate into other occupations. It

took testing and counseling to help people decide the best path to their futures and guide them back into the workforce faster.

We also learned that many customers are unprepared for the realities of today's Internet job searching tools and many are totally unfamiliar with basic computer use. Many do not speak English as their first language. As an example, a staggering 48% of New York City's workforce is foreign born. To address these and other barriers, we need partners and all available community resources to help ensure our services reduce UI duration and provide tools to allow an individual to attain better employment options. The REA grant brought additional UI customers to the One-Stop system and having an array of services to assist them was essential to the program's overall success. We urge Congress to sufficiently appropriate funds for the public workforce system, which will allow us to continue serving the many New Yorkers, including UI customers, for whom these services are vital to economic self-sufficiency.

I would like to share our concerns about REA funding. For REA to be effective in benefit payment control – something I know is important to those of you who funded this pilot - it must be linked directly to other key components of the publicly funded workforce system, including the UI administrative system. REA's positive outcomes in New York were the result of a separate federal grant application process and not a systemic approach to properly fund activities that can meet the REA objectives. REA funds do not replace either UI administrative funds or Wagner/ Peyser allocations, neither of which has been sufficient in recent years to effectively serve our customers.

Funding is insufficient in just the UI program alone, which, as you are aware, supports activities such as:

- Taking and processing of UI benefit claims;
- Employer tax processing, field audits and employer tax fraud detection;

- Integrity activities, including benefit payment controls; and

UI federal funding dollars allocated to New York for administration of the program have decreased substantially in recent years while, at the same time, we experienced higher annual costs of doing business – this equates to a substantially reduced level of funded staff. In just the last five years, New York’s number of supported UI staff has decreased 35% in the last five years. Although we have seen some reduction in the number of claims filed over this period, our staff reductions have greatly exceeded any reduced workloads.

As a result of under-funding the UI program:

- 1) Staff have been directed to front line claims-taking and eligibility determinations wherever possible;
- 2) Benefit payment controls have not always been sufficient. Nationally, the UI program ranks among the highest programs with improper payments;
- 3) Efforts to target employer tax fraud (including detection of misclassified workers) have not been given sufficient focus;
- 4) Efforts to integrate workforce programs system-wide are hurt. As indicated earlier, a strong linkage between the administration of UI and One-Stop service delivery systems is critical to getting UI claimants back to work and reducing waste in the system. Unless these are viewed as a single system and all segments are fully supported and aligned, none of these programs will be as successful as they must be. For example, efforts to profile those claimants most likely to exhaust benefits are not updated as quickly as needed, and re-employment programs for serving UI claimants require a sufficient level of staff to ensure success. In addition, as centralized call centers are implemented to take UI claims, a strong linkage with re-employment activities is more important than ever.

Like most or all other states, New York has undertaken many technological improvements and actions to improve efficiencies in our administration of the UI

program. But, we are not able to keep pace with the needs of our customers with the reduced federal investment in UI. We implemented a virtual call center for taking UI claims and we were at the forefront of states implementing electronic benefit payments of weekly claims via direct payment cards. We have also recently implemented direct deposit as an option for claimants to receive their weekly benefits.

These technological improvements, which offer the opportunity for increased customer access and satisfaction, also come at a cost. Reduced funding levels impact our ability to provide quality service to our customers, maintain a sufficient level of integrity activities and also meet performance measures required by USDOL.

A proper amount of UI funds, both administrative and within the Trust Fund, will allow New York and other states to creatively make changes in multiple types of services provided to UI customers. Starting with Federal Fiscal Year 2003, a revised methodology was implemented by USDOL to allocate UI administrative funding to the states – the Resource Justification Model (RJM). This revised methodology was to provide states with an ability to request increased funding where needed and also provide an equitable and fair distribution of funds based on states' justification of their upcoming fiscal year needs.

RJM data was also to be used to justify an increase in the national appropriation to support all states' needs for UI administration. The goals of this methodology have yet to be realized by the states. As a result, the updated cost information provided through the RJM process has instead been used to allocate an insufficient level of national funding among the states.

For 2007, New York State demonstrated a need via the RJM for a base level of UI administrative funding of approximately \$210 million. However, we received only approximately \$159 million, a reduction of \$51 million, or 24%. Similar deficiencies have occurred since the inception of RJM and are expected to continue in subsequent

years. Nationwide in 2006, \$2.8 billion was requested under RJM, while only \$2.3 billion was allocated to states, a difference of \$510 million.

Funding has not been sufficient nationally for a number of reasons. One I would like to address is the surplus employer FUTA tax collections that are retained each year on a national level and not provided back to states via UI, Wagner/Peyser and Labor Market Information program allocations. For example, in 2005 only 51% of the FUTA taxes paid by employers were returned to states in terms of administrative grants. At certain times in the past, when surpluses reached a given level, Reed Act distributions to states were provided in accordance with Section 903 of the Social Security Act. While it would only provide a temporary solution to funding these programs, New York supports the proposal from the National Association of State Workforce Agencies (NASWA) for a national Reed Act distribution to states of \$800 million per year for the next three consecutive years.

Despite funding reductions in recent years New York takes seriously the need to maintain a high level of integrity in our UI program. I have already discussed how critical it is to call claimants in early within their claims for quality control purposes. We also continue to look to ways to improve the quality of our own UI program determinations, reduce the number of improper UI benefit claims and tax transactions whenever possible.

We are proud of our success with REA, but if you take away one thing from my testimony today, it is that the success of our REA model was totally due to the services provided through the One-Stop system, including the services provided through essential WIA Title 1 funding. We were able to reduce UI benefits duration by an average of two weeks per claimant, and save our Trust Fund millions of dollars because of the value-added services that were provided by dedicated staff through the One-Stop career system. REA is not a separate, isolated process in New York. It is part of an integrated employment and training system, and we need Congress to fully support the continuation of these integrated services.

Sufficient levels of national appropriations for the UI Program, Wagner/Peyser, Re-employment Assistance Programs and the One-Stop networks will help ensure that states will be able to maintain an emphasis on high quality services to customers in the workforce development system, including unemployed citizens looking to return to work as soon as possible. In addition, sufficient funding will allow states to implement cost-saving measures and the technology infrastructure upgrades they need to ensure effective solutions to assist the unemployed.

New York is committed to providing the full array of services envisioned by Congress with enactment of the Workforce Investment Act. Unemployment Insurance is a mandatory partner program in the One-Stop system, as are the Employment Service and the WIA Title 1 programs.

Actions to rescind funding such as those taken by the House Appropriations Committee last week undermine the very commitment of Congress to ensure that our country remains globally competitive. We understand the competing needs in crafting a budget. However, New York cannot provide Congress with an assurance that we can commit to a REA model without a fully-funded One-Stop Career Center system.

Finally, let me state that New York welcomes grant opportunities such as REA, but one-time grants merely allow us to pilot strategies on a very small scale. Continued success requires dedicated, annualized funding, and Congress should consider moving from a REA grant approach to a permanent funding model if they wish to secure long-term results. Congress has a right to hold states accountable for these investments, and New York would gladly implement our REA model statewide, if fully-funded, and accept REA funds on a performance outcome basis.

We would urge all of you today to view the funding for the various components of the workforce system as part of a continuum. The system can operate most effectively when all parts are sufficiently funded to provide the mix of services necessary to get

individuals back to work. The integrity of the system is undermined when funding is rescinded mid-stream. Our work in carrying out the congressional vision and mandate for a One-Stop system continue to be undermined by efforts that erode the very basic support of the services your constituents depend upon and need access to. REA has provided a small, but important, tool in our portfolio of reemployment services and New York would urge continued and significantly increased investment by Congress in this program.

I thank you for providing me the opportunity to testify and I welcome your questions on these important issues.